

UNITED STATES DISTRICT COURT  
THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:23-cr-8

vs.

GOVERNMENT'S INITIAL PRETRIAL  
CONFERENCE SUMMARY STATEMENT

MICHAEL LOUIS McCLAIN,

Defendant. /

**I. DISCOVERY**

**A. Statements of Defendant**

**1. Oral Statements [Rule 16(a)(1)(A)]**

- ☐ There are no written records of oral statements or other oral statements as defined in Rule 16(a)(1)(A).
- ☒ There are the following written records of oral statements:
- FBI Interview of Defendant on 10/15/2022, memorialized in an FBI 302
  - Statements Defendant made to FBI over the telephone on 11/28/2022, memorialized in an FBI 302
  - Post-arrest statements Defendant made to FBI on 12/2/2022, memorialized in an FBI 302

the substance of which

- ☐ has been disclosed to defense counsel
- ☒ will be disclosed to defense counsel by IPTC, 2/9/23.

**2. Written or Recorded Statements [Rule 16(a)(1)(B)]**

- ☐ There are no written or recorded statements or grand jury testimony of defendant.
- ☒ There are the following written or recorded statements or grand jury testimony:
- Statements on 10/15/2022, 11/28/2022, and 12/2/2022 noted above.
  - Defendant's acknowledgment in Case No. 1:97-cr-34 that he understood and would comply with the conditions of his bond, which required him to appear at all Court proceedings.

All written or recorded statements

- ☐ have been disclosed to defense counsel
- ☒ will be disclosed to defense counsel by IPTC, 2/9/23

B. Defendant's Prior Record [Rule 16(a)(1)(D)]

- ☐ The government has made due inquiry and is not aware of any prior criminal record.
- ☒ The government has disclosed defendant's prior criminal history.
- ☐ The government is now making inquiry into defendant's prior criminal history.  
The results will be disclosed to defense counsel upon receipt.

C. Documents and Tangible Objects [Rule 16(a)(1)(E)]

- ☒ The government has no documents, tangible objects, or physical evidence required to be disclosed.
- ☐ The government has the following documents, tangible objects, and physical evidence:
- ☐ Controlled Substances:
  - ☐ Drug Paraphernalia:
  - ☐ Records:
  - ☐ Drug Records:
  - ☐ Firearms:
  - ☐ Inventory (attached)
  - ☐ Other:
- ☒ The government voluntarily notifies the defendant of the following search warrants issued and the warrant returns:
- ☐ State
  - ☒ Federal (list case number and caption)
    - 1:22-mc-00128: In Re Application of the United States of America for An Order Authorizing the Installation and Use of a Pen Register and Trap and Trace Device
    - 1:22-mj-492: In Re Cell-Site Simulator to Locate Verizon Wireless Cellular Telephone Assigned Number (915) 283-7388
    - 1:22-mj-493: In Re Location Information Related to Cellular Telephone Number (915) 283-7388, With Wireless Service Provided by Verizon Wireless

- ☐ They have been made available for inspection and copying by defense counsel.
- ☐ Defense counsel should make arrangements with

D. Reports of Examinations and Tests [Rule 16(a)(1)(F)]

- ☒ The government has no reports of examinations or tests required to be disclosed by Rule 16.
- ☐ The government has or expects to have reports of the following examinations and tests:
- |   |   |  |
|---|---|--|
| <input type="checkbox"/> Drug Analysis      | <input type="checkbox"/> Handwriting    | <input type="checkbox"/> Fingerprints    |
| <input type="checkbox"/> DNA                | <input type="checkbox"/> Firearms/Nexus | <input type="checkbox"/> Gun Operability |
| <input type="checkbox"/> Computer Forensics |   | <input type="checkbox"/> Other           |

E. Reciprocal Discovery

- ☒ The government seeks reciprocal discovery.

F. Notice Under FRE 404(b)

- ☒ The government does not presently intend to introduce 404(b) evidence.  
☐ The government does presently intend to introduce the following 404(b) evidence:  
  
☐ The government will provide pretrial notice of 404(b) evidence by

G. Other Discovery Matters:

**II. TRIAL**

- A. The government requests a ☒ jury ☐ non-jury trial.  
  
B. Length of trial excluding jury selection is estimated at 1 day

**III. MISCELLANEOUS**

The parties acknowledge that if the case is appropriate for expedited resolution, a joint motion for expedited sentencing shall be filed within 14 days of arraignment.

- ☒ The government is unaware at this time of any known conflict with defendant's representation by counsel. The United States will immediately advise counsel if any such conflict becomes known.  
☐ The government is aware of the following potential conflict(s):  
☒ Government's plea negotiation policy: Defendant must plead guilty two weeks in advance of the final pretrial conference to receive a motion from the Government for the third point for acceptance of responsibility.

Date: February 8, 2023

/s/ Joel S. Fauson  
JOEL S. FAUSON  
Assistant United States Attorney